



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/301,868	04/29/1999	MARK JAMES BECKMAN	BECKMA.M-1	6175

7590 04/03/2007  
JOHN E. HALAMKA, ESQ  
P.O. BOX 207  
PALOS VERDES ESTATES, CA 90274

EXAMINER
----------

THAKUR, VIREN A

ART UNIT	PAPER NUMBER
----------	--------------

1761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/301,868

Applicant(s)

BECKMAN, MARK JAMES

Examiner

Viren Thakur

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election / Restriction***

1. Claims 1-9, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement as set forth in the Office action mailed on March 14, 2000 is hereby withdrawn.

In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### ***Response to Amendment***

2. Applicant's arguments regarding the rejection of claims 11-12 under 35 U.S.C. 103(a) as being unpatentable over Selz (US 4693410) in view of Barnes et al. (US 5674546) are moot in view of the new grounds of rejection below.

Art Unit: 1761

3. Applicant's arguments regarding the rejection of claim 13 under 35 U.S.C. 103(a) as being unpatentable over Selz in view of Rea et al. (US 5950913) are moot in view of the new grounds of rejection below.
4. Applicant's arguments regarding the rejection of claim 16 under 35 U.S.C. 103(a) as being unpatentable over Selz (US 4693410) in view of LaBarbera et al. (US 4170316) are moot in view of the new grounds of rejection below.
5. Regarding the rejection of claims 10, 14-15 and 17 under 35 U.S.C. 102(b) as being anticipated by Selz (US 4693410), the rejection set forth below attempts to clarify the rejection on the record.
6. Applicant's arguments regarding the rejection of claims 10-17 under 35 U.S.C. 112, first paragraph have been considered but are moot in view of the new grounds of rejection below.

### ***Drawings***

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: page 8, line 26 of the amended specification recites "snack package 20" in figures 7 and 8; however these figures do not have an item 20.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any

required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

8. The amendment filed January 5, 2001 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: claim 14 recites the limitation "a catch mounted on the inner wall..." Although the specification provides support for the inner wall of the snack envelope snap catching under a neck ridge of the bottle support in the specification has not been provided or is not reasonably evident to the ordinarily skilled artisan for a catch on *the* inner wall of the snack envelope. Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. **Claims 10-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.** The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The instant claim recites the limitation "the snack envelope extending diametrically from the bottle wall no more than by the thickness of the outer envelope wall." From the claim limitation, it is not clear as to how the snack envelope receives a

snack food, if the envelop can only extend diametrically by an amount no greater than the thickness of the outer wall. The envelope has both an inner and outer wall, within which is contained a snack food, as described in Figures 7 and 8 of the specification. As recited in instant claim 10, the snack envelope must only extend diametrically by a distance no greater than the thickness of the outer wall; however by extending only by the thickness of the outer wall, the envelope would not be capable of receiving a snack food.

Instant claim 13 recites the limitation "without releasing said snack food from said envelope..." The specification recites wherein the package comprises a spiral score, on page 8, lines 20-23 however there is no support for removing the score without releasing the snack food item. Instant claim 14 recites the limitation "a catch mounted on the inner wall." Although the specification provides support for the inner wall of the snack envelope snap catching under a neck ridge of the bottle support in the specification has not been provided or is not reasonably evident to the skilled artisan for a catch on *the* inner wall of the snack envelope.

Applicant's arguments that it is strongly implied that the envelope should be attached in a manner to allow the subsequent removal of the snack envelope from the bottle without spilling the snack have been fully considered but are not persuasive. The Examiner asserts that removing the envelope without spilling the snack would not be implied since a wrapped snack, such as hard candy would not require the containment of the snack package. Such candy could have been wrapped in a spirally scored envelope that when torn would result in access to the snack..

Regarding the vending of the product Applicant's arguments have been fully considered but are not persuasive; Applicant's arguments are not commensurate in scope with the claims. Nevertheless, the stresses exerted on the envelope as a result of vending depend wholly on the type of vending machine as well as the materials by which the envelope are made. Therefore to the skilled artisan, the snack within the container could have been contained within the envelope without spilling the snack. Additionally, preventing the release of the snack within the snack

envelope upon vending is also dependent on the amount of score lines and how easy a force exerted onto the envelope would result in a tear.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. **Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Instant claims 1, 6 and 10 recite the limitation "diminished diameter." It is not clear as to from what the diameter is diminished. The product claims recite the structure at a specific state in time. Therefore, without providing an appropriate frame of reference to define from what the diameter is diminished, the bottle neck would already include a "diminished diameter." In other words, without an appropriate comparison the limitation "diminished diameter" is the diameter of the bottle neck at a specific point in time.

The instant claims further recite the limitation "snack food." Although the specification provides examples for what is considered a snack food, these are non-limiting examples. Thus, for examination purposes a snack food is considered any edible product.

The instant claims further recite the limitation "intimate" or "intimately." Further clarification is required in order to appropriately define the metes and bounds of the limitation "intimately." It is not clear as to what degree of interaction would be considered intimate.

Instant claims 14-17 recite the limitation "inwardly radially directed protuberance." It is not clear as toward what the protuberance is inwardly radially directed; whether the protuberance is inward toward the snack envelope or toward the bottle.

Instant claim 10 recites the limitation "substantially." Further clarification is required in order to appropriately define the metes and bounds of the limitation. It is not clear as to how much of an extension of the snack envelope from the bottle wall is considered substantial. The instant claim further recites the limitation "the bottle wall." There is insufficient antecedent basis for this limitation in the claim.

Applicant's argument regarding the definiteness of the limitation "substantial" has been considered but is not persuasive. Applicant argues that a reasonable person in the art can easily be instructed from this language that the placement of the combined objects should be such that a crowbar need to be used to insert combination into the vending machine space formerly occupied by the beverage bottle alone so as to not damage, separate or otherwise mutilate the combination. This argument has been fully considered but is not deemed persuasive. The Examiner asserts that the ability to insert the combined object into the vending machine also depends on the size of the vending machine and the relative size of the object. Applicant further states that "of course the space is a bit larger as the two items are not taught to be fused..." Even in this argument, the term "bit" is broad and the term "bit larger" would not define the limitation, "substantially." The Examiner respectfully asserts that the instant claim does not define what is considered substantially the same space as the drink bottle alone.

***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. **Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Barton (US 4635291).**

The instant claims recite functional language, such as "for," "adapted for," and "enabled for." The Examiner asserts that in product claims, the prior art need only recite the structure of the limitations. If the prior art meets the structural limitations, then the prior art would have been capable of performing the recited intended use.

Barton discloses a combination comprising a drink bottle (Figure 1, Item B) providing a cylindrical bottle wall (See Figure 1) joined axially with a diminished diameter bottle neck (Figure 1, Item N), the bottle neck terminating at a removable bottle cap (Figure 1, See above item N); a sealed snack package (Figure 2, Item 22) containing a



Art Unit: 1761

snack food (Column 4, Line 66 to Column 5, Line 4). As can be seen from Figure 1, the snack package is adapted for being wrapped around the bottle neck of the drink bottle, for intimate abutment therewith. The Examiner notes, that the language "adapted to" and "for" is functional language and thus if the prior art meets the structure of the limitation, then said prior art would have been capable of performing the disclosed functional language. In this case, since the prior art discloses a sealed snack package, as shown in Figure 1, said snack package would have been capable of being wrapped around the bottle neck for intimate abutment therewith. Barton further discloses an envelope (Figure 2, Item 10) having a cylindrical wall (Figure 1, see below item N) terminating with an aperture at one end thereof. Barton discloses a cylindrical wall as that portion of the envelope that wraps round the neck of the bottle. The aperture is the portion of the envelope that allows for the neck of the bottle to be placed there through. As can be seen by Figure 1, and in light of the rejection under 112, second paragraph, above, the inner surface of the envelope is intimately against the bottle wall. Since the snack package is part of the envelope, said snack package is also intimately positioned against the bottle wall. As a result of this intimate interaction, said snack package would also be pressed against the bottle neck. Figure 1 further discloses wherein the envelop wall is wrapped and in contact with the neck of the bottle, and thus does not extend any more than by the thickness of the envelope wall. Further regarding instant claim 6, said sealed snack package is wrapped over the bottle neck (Figure 1). By covering the neck of the bottle, Barton discloses wherein the snack package is wrapping and simultaneously over the bottle neck.

**15. Claims 10 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Schumacher et al. (US 5465835).**

The instant claims recite functional language, such as "for," "adapted for," and "enabled for." The Examiner asserts that in product claims, the prior art need only recite the structure of the limitations. If the prior art meets the structural limitations, then the prior art would have been capable of performing the recited intended use.

Schumacher et al. disclose a drink bottle (Figure 1, Item 2) providing a cylindrical bottle wall (Figure 1, Item 2) joined axially with a diminished diameter bottle neck (Figure 1, Item 1), the bottle neck terminating at a removable bottle cap (Figure 12, Item

Art Unit: 1761

8); and a snack package fabricated as an envelope (Figure 12, Item 11), having an inner wall and an outer wall having a sealable opening mounted on said outer wall (Figure 12, Item 11 – see opening on the top of item 11). Since Schumacher discloses an aperture (Figure 12 – see between item 14 and see between item 11), said aperture is sized and shaped for accepting the bottle neck and removable cap. As stated above, since the prior art discloses the structure of the product claim, the prior art would have been capable of the intended use: in this case, accepting the bottle neck and removable cap. Schumacher et al. further disclose a wall intimately against the bottle wall (Figure 12, Item 15) for securement therewith. In light of the rejection under 112, second paragraph, the Examiner interprets that if any portion of a wall is in contact with the bottle wall, then said wall is in intimate contact with said bottle wall. Schumacher further discloses a concentrically oriented cylindrical inner wall capable of engagement with the bottle cap. The snack envelope extends diametrically (Figure 12, Item 15) no more than by the thickness of the outer envelope wall (Figure 12, Item 15). Since the envelope wraps around the bottle neck, said envelope extends diametrically and no more than by the thickness of the outer wall. As recited in instant claim 10, Schumacher et al. disclose a catch (Figure 12, Item 14) mounted on the inner wall, that is capable of engagement with the bottle neck and fabricated in the form of an inwardly radially directed protuberance. Again, since the prior art discloses the structure of the instant claim limitation, the prior art would have been capable of the intended function of said structure; in this case, engagement with the bottle neck. As recited in instant claim 15, said protuberance is annular since said protuberance extends around the envelope and engages a cylindrical bottle neck. As recited in instant claim 16, said protuberance is a plurality of bosses, as can be seen from Figure 12, item 14, since Schumacher et al. disclose a plurality of said protuberances. As recited in instant claim 17, Schumacher et al. disclose access means in opposition to the bottle cap (Figure 12, Item 7). The envelope is enclosed by both the bottle cap (Figure 12, Item 8) and a bottom closure (Figure 12, Item 7) in opposition to said bottle cap which enables access to the snack food.

- 16. Claims 10, 14-15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Muza et al. (US 5397017).**

The instant claims recite functional language, such as "for," "adapted for," and "enabled for." The Examiner asserts that in product claims, the prior art need only recite the structure of the limitations. If the prior art meets the structural limitations, then the prior art would have been capable of performing the recited intended use.

Muza et al. disclose a drink bottle providing a cylindrical bottle wall (Figure 1, Item 28) joined axially with a diminished diameter bottle neck (Figure 3, Item 32), the bottle neck terminating at a removable cap (Figure 3, Item 40). Muza et al. further disclose a snack package fabricated as an envelope (Figure 3, Item 12) having an inner wall and an outer wall having a sealable opening mounted on said outer wall for removably receiving a snack food. The Examiner notes that the snack envelope does not require snack food contained therein, but must merely be capable of receiving a snack food. Further Muza, et al. disclose the snack package envelope having a cylindrical envelope outer wall (Figure 3, Item 34) joined to said inner wall (Figure 3, Item 36), terminating with an aperture at one end thereof (Figure 3, See in between item 36). Said aperture has a size and shape that is capable of accepting the bottle neck and removable cap. When engaged with said bottle neck and cap, there is a wall intimately against the bottle wall (Figure 3, Item 42 and Item 28) for securement therewith. In light of the rejection under 112, second paragraph above, the Examiner interprets that if any wall is in relative communication with a bottle wall, then said wall is intimately against said bottle wall. Muza et al. further disclose an aperture providing a concentrically oriented cylindrical inner wall (Figure 3, Item 30) capable of engagement with the bottle cap. In actuality, the aperture already contains the bottle cap (Figure 3, Item 40) and this is engaged with the bottle cap. In light of the rejection under 112, first paragraph, above, Muza et al. disclose wherein the snack envelope extends diametrically by a distance that occupies the substantially same space as the drink bottle alone (Figure 3). As recited in instant claim 14, Muza et al. disclose a catch (Figure 3, Item 32) mounted on the inner wall capable of engagement with the bottle neck, wherein said catch is fabricated in the form of an inwardly radially directed protuberance. Again, since the prior art discloses the structure of the instant claim limitation, the prior art would have been capable of the intended function of said structure; in this case, engagement with the bottle neck. As recited in instant claim 15, said protuberance is annular since said protuberance extends around the envelope and engages a cylindrical bottle neck. As recited in instant claim

Art Unit: 1761

16, said protuberance is a plurality of bosses, as can be seen from Figure 3, item 32, since Muza et al. disclose a plurality of said protuberances. As recited in instant claim 17, Muza et al. disclose access means (Figure 3, Item 46) in opposition to the bottle cap (Figure 3, Item 40), which enables access to the snack food. The Examiner notes that instant claim recites terminology, "access means" that invokes 112, 6<sup>th</sup> paragraph, means-plus function language; however, the disclosure does not provided adequate support for what are the applicable functions. Based on the guidelines set forth in MPEP Section 2181 the Examiner has applied the means plus function based on that which would have been known to one having ordinary skill in the art to perform said function.

**17. Claims 10, 14-15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Selz (US 4693410).**

The instant claims recite functional language, such as "for," "adapted for," and "enabled for." The Examiner asserts that in product claims, the prior art need only recite the structure of the limitations. If the prior art meets the structural limitations, then the prior art would have been capable of performing the recited intended use.

Selz discloses a drink bottle (Figure 24, Item 5) providing a cylindrical bottle wall (Figure 24, See bottle) joined axially with a diminished diameter bottle neck (Figure 24, See above bottle wall) and a bottle neck terminating at a removable bottle cap (Column 8, Lines 51-56), and a snack package fabricated as an envelope (Figure 24, Item 1) having an inner wall and an outer wall. It is inherent that an envelope would have an inner wall, within which the bottle is contained and an outer wall opposite that of the inner wall. Selz further discloses an opening mounted on said outer wall (Figure 4, Item 14) that is sealable (Column 2, Lines 61-66) and is further capable of receiving a snack food. Selz discloses an aperture (Figure 4, Item 14) capable of accepting the bottle neck and removable cap and there is a wall (Figure 2, Item 5) intimately against the bottle wall capable of securement therewith. The aperture further provides a concentrically oriented cylindrical inner wall (See Figure 4, Item 4) capable of engagement with the bottle cap. In light of the rejection under 112, first paragraph, above, Selz discloses the snack envelope extending diametrically from the bottle wall no more than by the thickness of the outer envelope (Figure 4, Item 14); thus allowing the combination to occupy the same space as the drink bottle alone. As recited in instant claim 14, Selz

Art Unit: 1761

discloses a catch mounted on the inner wall (Figure 4, See left end of item 4) for engagement with the bottle neck. Said catch is fabricated in the form of an inwardly directed protuberance. Selz discloses an inward protuberance since said catch extends toward the bottle neck. By extending toward the bottle neck, Selz discloses wherein the protuberance is an annular ridge. As recited in instant claim 17, the access means (Figure 4, Item 14) positioned in opposition to the bottle cap, which would enable access to a snack food within the envelope.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
19. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
20. **Claims 1-2, 6, 10, 14-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauner et al. (US 5372827). Franco (US 5743423) is cited as evidence as discussed below.**

Regarding claims 1, 6 and 10, Brauner et al. disclose a drink bottle (Figure 4, Item 12 and see abstract), comprising a diminished diameter bottle neck (Figure 4, Item

Art Unit: 1761

16), a sealed snack package containing a snack food (Figure 4, Item 20). The instant claims recite functional language, such as "for," "adapted for," and "enabled for." The Examiner asserts that in product claims, the prior art need only recite the structure of the limitations. If the prior art meets the structural limitations, then the prior art would have been capable of performing the recited intended use. Said snack package is capable of and thus adapted for being wrapped around the bottle neck of the drink bottle for intimate abutment therewith. The Examiner notes that if the prior art discloses the claimed structure, then said prior art would have been capable of performing the recited intended use. In this case, said snack package is adapted for being wrapped around the bottle neck of the drink bottle and is further capable of intimate abutment therewith. As can be seen by Figure 4, and in light of the rejection under 112, second paragraph, above, the snack package is considered intimately abutted with the bottle neck. Brauner et al. further disclose an envelope (Figure 2, Item 20) terminating with an aperture (Figure 4, Item 56) adapted for accepting the bottle neck (Figure 4, Item 16) and for positioning an inner surface of the envelope wall intimately against the bottle wall for securement therewith. Said envelope is further enabled for pressing the snack package against the bottle neck, since Brauner et al. disclose wherein the package (and thus envelope) are to be secured to the drink bottle (Column 2, Lines 3-20). In light of the rejection under 112, first paragraph, above, Brauner et al. disclose wherein the snack envelope extends diametrically by a distance that occupies the substantially same space as the drink bottle alone (Figure 4, Item 20). Further regarding instant claim 6, Brauner et al. teach wherein said snack package is wrapped over the bottle neck (Figure 4, Item 20). Wrapping in any direction would cover the bottle neck, and thus, Brauner et al. disclose wherein said envelope wraps the neck.

Brauner et al. is silent in explicitly teaching wherein the bottle is cylindrical.

Brauner et al. teach wherein the sample package is useful in connection with conventional plastic containers for fluid foods such as milk, juice and water (Column 2, Lines 21-24) and further teach wherein the container can be a jug or a bottle (See Abstract). It would have been obvious to the ordinarily skilled artisan that conventional plastic containers for fluids such as juice and water include bottles having a cylindrical wall. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the invention of Brauner et al. could have also have

Art Unit: 1761

been used with a cylindrical bottle. Franco on Figure 6 and Column 2, Lines 25-33, is cited as further evidence of the commonality of cylindrical bottles to hold fluids such as water.

Regarding instant claim 2, Brauner et al. disclose an annular cap sheath (Figure 4, Item 56) that frictionally engages the bottle neck and secures the envelope to the drink bottle.

Regarding instant claims 14 and 15, Brauner et al. disclose a catch mounted on the inner wall (Figure 4, Item 60) that engages the bottle neck. Since said catch protrudes inwardly toward the bottle neck, the Examiner interprets that said catch is an inwardly radially directed protuberance. Regarding instant claim 15, since said protuberance conforms to the cylindrical bottle neck, said protuberance is an annular ridge.

Regarding instant claim 17, Brauner et al. disclose wherein the envelope has an access means in opposition to the bottle cap (Figure 4, Item 30) that enables access to the snack food.

- 21. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brauner et al. (US 5372827), as applied to claims 1-2, 6, 10, 14-15 and 17, above, and in further view of Singer (US 6085919).**

Regarding instant claim 16, wherein the protuberance comprises a plurality of bosses, Brauner teaches a continuous annular boss while the instant claim recites a plurality of bosses.

Brauner et al. is silent in teaching wherein the protuberance is a plurality of bosses, as recited in instant claim 16.

Singer teaches a cylindrical bottle comprising a secondary compartment used for storing a prize. Singer teaches that annular bosses have been well known in the prior art (Figure 4, Item 14b), and wherein said annular bosses are used to secure a secondary compartment to a bottle neck. MPEP Section 2144.06 states that in order to rely equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents. In this case, similar to the instant claims limitations, the annular protuberance of the prior art

Art Unit: 1761

serves to secure the snack envelope to the bottle. Therefore, the structure of the prior art serves to perform the same function as that of the instant claim limitation: to removably snap fit a container to a bottle neck. A plurality of bosses would have served the same function as the annular protuberance in the prior art. Thus, to use a plurality of bosses for the protuberance would have been substituting a known equivalent for the same purpose, and thus would not have provided a patentable feature over the prior art.

**22. Claims 3-4, 7-8, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauner et al. (US 5372827) in view of Lemelson (US 3112824).**

Brauner et al. is taken as cited above. The instant claims recite functional language, such as "for," "adapted for," and "enabled for." The Examiner asserts that in product claims, the prior art need only recite the structure of the limitations. If the prior art meets the structural limitations, then the prior art would have been capable of performing the recited intended use.

Brauner et al. is silent in teaching an adhesive layer or an adhesive strip for joining the inner surface of the envelope to the cylindrical bottle wall for sealing the envelope, as recited in instant claims 3-4, 7-8 and 11-12.

Lemelson teaches a product container comprising a cylindrical bottle (Figure 9) comprising an additional container (Figure 9; Item 11) within which a product, such as a premium, has been contained (Figure 8, Item A). Lemelson further teaches using an adhesive layer or strip for joining the inner surface of the envelope to the cylindrical wall (Column 4, Line 68 to Column 5, Line 3) and a plurality of bosses (Figure 9, Item 11b and 13').

By supporting a container to simultaneously package a sample of a cereal, it would have been obvious to the ordinarily skilled artisan that Brauner et al. teach promoting a premium article. Analogous to Brauner et al., Lemelson teaches containing a premium article in a position around the cap and neck portion of the bottle. By using an adhesive layer or trip, Lemelson teaches a means for securing the enveloping means to the container and thus preventing the dislodgement of the container holding the premium item. As a problem with the prior art, Brauner et al. teach that the sample must be relatively easy to remove from the bottle but also wherein the securing means is strong enough to maintain the sample package on top of the bottle (Column 2, Lines 3-



13 and 30-35). Thus, the teachings of Lemelson suggest to one having ordinary skill in the art that it would have been obvious to use an adhesive tape or layer with the sample package of Brauner et al., so as to provide a strong securing means that is resistant to dislocation but is still simple to remove.

- 23. Claims 5, 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauner et al. (US 5372827) in view of Lemelson (US 3112824), as applied to claims 3-4, 7-8, and 11-12, above, and in further view of Turpin (US 3962476). Akutsu et al. (US 4779738) is cited as evidence, as discussed below.**

Brauner et al. and Lemelson are taken as cited above. Lemelson further teaches wherein a score line is provided to facilitate removal of the container holding the premium from the bottle (Figure 5, Item 22T; Figure 6, Item 32T; Column 4, Lines 55-58; Lines 68-71).

Brauner et al. in view of Lemelson are silent in teaching wherein the envelope wall is spirally scored.

Turpin teaches a container comprising a first cylindrical compartment to hold a first food item (Figure 2, Item 16) and a second cylindrical compartment that holds a second food item (Figure 2, Item 10). Turpin further teaches a spiral score (Figure 1, Item 21).

Such a score line has been well established in the art as a common technique for accessing the contents within a container. Akutsu et al. provides further evidence of this. Additionally, Akutsu et al. on Column 1, Lines 15-20, is cited as further evidence that spiral tearing lines facilitate the removal of the packaging. As discussed above, Brauner et al. teach the need for easy removal of the cereal package that also has a strong means for securing said package to the bottle. Given the teachings of Turpin, it would have been obvious to one having ordinary skill in the art to use a spiral tear, for the purpose of facilitating quick and easy removal of the cereal package from the bottle. The simple tear line of Lemelson facilitates removal of the container holding the premium item but a spiral score, as taught by Turpin would ensure a consistent tear and thus easy removal of the container holding the premium item.

Art Unit: 1761

**24. Claims 1-2, 6, 10, 14-15 and 17 are rejected under 35 U.S.C. 103(b) as being unpatentable over Franco (US 5743423).**

Franco discloses a cylindrical drink bottle with a diminished diameter bottle neck (Figure 1), with a sealed snack package containing a snack food (Figure 4); wherein the snack package is adapted for wrapping around and over the bottle neck of the drink bottle. The envelope (Figure 4, Item 10) terminating with an aperture at one end thereof (Figure 4, Item 20), wherein the aperture is adapted for accepting the bottle neck (Figure 3) and capable for positioning of an inner surface of the envelope wall intimately against the bottle wall (Figure 3). In light of the rejection under 112, second paragraph, above, the Examiner interprets that if any portion of a wall is in contact with the bottle wall, then said wall is in intimate contact with said bottle wall. Franco further discloses wherein the envelope is frictionally engaged with the bottle cap and thus the envelope inherently presses against the bottle neck.

Franco is silent in teaching wherein the envelope wall extends diametrically from the bottle wall no more than by the thickness of the envelope wall. Regarding instant claims 14-15 and 17 Franco is silent in teaching a catch mounted on the inner wall and fabricated in the form of an inwardly radially directed protuberance; wherein the protuberance is an annular ridge.

However, in light of the rejection under 112, first paragraph, the amount by which the envelope extends so as to occupy the same space as the bottle is also wholly dependent on the size of the bottle. Therefore, depending on the type and size of bottle, it would have been obvious to one having ordinary skill in the art that the envelope would have not extended past the width of the bottle. Such a modification would have been obvious, since bottles are well known to be shelved side by side while also maximizing the given shelf space. Thus it would have been obvious to the ordinarily skilled artisan that sizing the snack package to not extend diametrically farther than the bottle would have allowed the combination package to be shelved without occupying additional shelf space.

Regarding instant claim 2, Franco discloses a sheath (Figure 3, Item 22) for frictional engagement with the bottle cap.

Regarding instant claims 14-15 and 17 Franco teaches wherein the protuberances are mounted on the bottle neck (Figure 6, Item 24). However, to change

Art Unit: 1761

the orientation of the protuberances so that the protuberance was on the snack envelope and not the bottle neck would have been an obvious expedient of the prior art. By changing the positioning of the protuberance would not have modified the operation of the bottle (See MPEP 2144.04 VI), and thus would not have provided a patentable feature over the prior art.

Regarding instant claim 17, Franco discloses wherein the envelope has an access means positioned in opposition to the bottle cap (Figure 4, Item 10) to enable access to a snack food.

- 25. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franco (US 5743423) as applied to claims 1-2, 6, 10, 14-15 and 17, above, and in further view of Singer (US 6085919).**

Regarding wherein the protuberance comprises a plurality of bosses, Franco teaches a continuous annular boss while the instant claim recites a plurality of bosses.

Singer teaches a cylindrical bottle comprising a secondary compartment used for storing a prize. Singer teaches that annular bosses have been well known in the prior art (Figure 4, Item 14b), and wherein said annular bosses are used to secure a secondary compartment to a bottle neck. MPEP Section 2144.06 states that in order to rely equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents. In this case, similar to the instant claims limitations, the annular protuberance of the prior art serves to secure the snack envelope to the bottle. Therefore, the structure of the prior art serves to perform the same function as that of the instant claim limitation: to removably snap fit a container to a bottle neck. A plurality of bosses would have served the same function as the annular protuberance in the prior art. Thus, to use a plurality of bosses for the protuberance would have been substituting a known equivalent for the same purpose, and thus would not have provided a patentable feature over the prior art.

- 26. Claims 3-5, 7-9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franco (US 5743423) in view of Willis (US 4544073). Akutsu et al. (US 4779738) is cited as evidence, as discussed below.**

Franco is taken as cited above. The Examiner notes that the instant claims recite functional language, such as "for," "adapted for," and "enabled for." The Examiner asserts that in product claims, the prior art need only recite the structure of the limitations. If the prior art meets the structural limitations, then the prior art would have been capable of performing the recited intended use.

Franco is silent in teaching wherein an adhesive layer or strip is positioned for joining the snack envelope wall to the cylindrical bottle, as recited in claims 3-4, 7-9 and 11-12; and wherein the outer snack envelope wall is spirally scored so as to enable peeling.

Willis discloses a cylindrical bottle and overcap combination (Figure 1) wherein the overcap comprises an irregular score line (Figure 3, Item 31) by which the overcap is removed from the cylindrical bottle. Willis further teaches wherein the score line provides a means for tamper resistance (Column 2, Lines 37-43). It would have been obvious to the ordinarily skilled artisan, from Figure 3, that the tamper resistant feature is adhered to the overcap (Figure 3, Item 1) and the cylindrical bottle wall (Figure 3, Item 9). Willis further teaches wherein similar tamper evidence means could be used for the bottle cap as well (Column 2, Lines 26-31). Given these teachings, it would have been obvious to use an adhesive layer or strip to secure the snack package of Franco to the cylindrical bottle, as taught by Willis, for the purpose of providing tamper evidence. Such a modification would have ensured the freshness of the snack package and would have alerted a user of whether the combination bottle had been tampered with. The teachings of Willis provide further motivation to the ordinarily skilled artisan to use an irregular score line to secure the snack package of Franco to the cylindrical wall for the purpose of providing tamper evidence. The use of the irregular score line would have facilitated removal of the snack package while also provided a tamper evident feature to the snack package.

To use a spiral score versus an irregular score would have been obvious to the ordinarily skilled artisan for the purpose of making the snack package easier to remove from the bottle. Since Willis already teaches wherein the score line is irregularly shaped, using a spiral shape would have merely been a change in shape that would have resulted in a similar function (See MPEP 2144.04 IV). Therefore, to use a spiral score would not have provided a patentable feature over the prior art. Furthermore as

Art Unit: 1761

evidenced by Akutsu et al. on Column 1, Lines 15-20, a spiral score line has been well known in the art as a means for facilitating separation of a package.

- 27. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schumacher et al. (US 5465835) in view of Willis (US 4544073). Akutsu et al. (US 4779738) is cited as evidence, as discussed below.**

Schumacher et al. is taken as cited above. Schumacher et al. further teaches securing the second compartment using snap fitting or screw means (Figure 1, Items 3 and 15).

Schumacher et al. is silent in teaching an adhesive layer or strip, as recited in instant claims 11-12; wherein the outer snack envelope wall is spirally scored, as recited in instant claim 13

Willis is taken as cited above, in paragraph 17. It would have been obvious to the ordinarily skilled artisan that by using a snap fitting or screw fitting engagement between the bottle and the second compartment that Schumacher et al. seek to ensure that the second compartment is securely fitted to the bottle. Given the teachings of Willis, it would have been obvious to use an adhesive layer or strip to secure the snack package of Schumacher et al. to the cylindrical bottle, for the purpose of providing tamper evidence. Such a modification would have ensured the freshness of the snack package and would have alerted a user of whether the combination bottle had been tampered with. The teachings of Willis provide further motivation to the ordinarily skilled artisan to use an irregular score line to secure the snack package of Schumacher et al. to the cylindrical wall for the purpose of providing tamper evidence. The use of the irregular score line would have facilitated removal of the snack package while also provided a tamper evident feature to the snack package.

To use a spiral score versus an irregular score would have been obvious to the ordinarily skilled artisan for the purpose of making the snack package easier to remove from the bottle. Since Willis already teaches wherein the score line is irregularly shaped, using a spiral shape would have merely been a change in shape that would have resulted in a similar function (See MPEP 2144.04 IV). Therefore, to use a spiral score would not have provided a patentable feature over the prior art. Furthermore as

Art Unit: 1761

evidenced by Akutsu et al. on Column 1, Lines 15-20, a spiral score line has been well known in the art as a means for facilitating separation of a package.

**28. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muza et al. (US 5397017) in view of Willis (US 4544073).**

Muza et al. is taken as cited above. Muza et al. further teaches securing the second compartment using snap fitting or screw means (Figure 4, Item 30).

Muza et al. is silent in teaching an adhesive layer or strip, as recited in instant claims 11-12; wherein the outer snack envelope wall is spirally scored, as recited in instant claim 13.

Willis is taken as cited above, in paragraph 17. It would have been obvious to the ordinarily skilled artisan that by using a snap fitting or screw fitting engagement between the bottle and the second compartment that Muza et al. seek to ensure that the second compartment is securely fitted to the bottle. Given the teachings of Willis, it would have been obvious to use an adhesive layer or strip to secure the snack package of Muza et al. to the cylindrical bottle, for the purpose of providing tamper evidence. Such a modification would have ensured the freshness of the snack package and would have alerted a user of whether the combination bottle had been tampered with. The teachings of Willis provide further motivation to the ordinarily skilled artisan to use an irregular score line to secure the snack package of Muza et al. to the cylindrical wall for the purpose of providing tamper evidence. The use of the irregular score line would have facilitated removal of the snack package while also provided a tamper evident feature to the snack package.

To use a spiral score versus an irregular score would have been obvious to the ordinarily skilled artisan for the purpose of making the snack package easier to remove from the bottle. Since Willis already teaches wherein the score line is irregularly shaped, using a spiral shape would have merely been a change in shape that would have resulted in a similar function (See MPEP 2144.04 IV). Therefore, to use a spiral score would not have provided a patentable feature over the prior art. Furthermore as evidenced by Akutsu et al. on Column 1, Lines 15-20, a spiral score line has been well known in the art as a means for facilitating separation of a package.

Art Unit: 1761

- 29. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selz (US 4693410) in view of Willis (US 4544073). Akutsu et al. (US 4779738) is cited as evidence, as discussed below.**

Selz is taken as cited above. Selz further teaches a seal between the snack envelope and the bottle wall (Figure 4, Item 15). The wall that provides the sealing means, further serves to center the cup on the bottle (Column 9, Lines 52-55).

Selz is silent in teaching an adhesive layer or strip, as recited in instant claims 11-12; wherein the outer snack envelope wall is spirally scored, as recited in instant claim 13.

Willis is taken as cited above in paragraph 17. The teachings of Selz suggest to one having ordinary skill in the art to secure the snack envelope by using a sealing wall (Figure 4, Item 15) so as to ensure that contents within the envelope do not escape (Column 9, Line 39-63). Additionally, Selz teaches maintaining the snack envelope centered on the bottle. Given these teachings in combination with Willis, it would have been obvious to use an adhesive layer or strip to secure the snack package of Selz to the cylindrical bottle, for the purpose of providing tamper evidence and further maintaining the seal and centered positioning of the snack envelope. Such a modification would have ensured the freshness of the snack package and would have alerted a user of whether the combination bottle had been tampered with. The teachings of Willis provide further motivation to the ordinarily skilled artisan to use an irregular score line to secure the snack package of Selz to the cylindrical wall for the purpose of providing tamper evidence. The use of the irregular score line would have facilitated removal of the snack package while also provided a tamper evident feature to the snack package.

To use a spiral score versus an irregular score would have been obvious to the ordinarily skilled artisan for the purpose of making the snack package easier to remove from the bottle. Since Willis already teaches wherein the score line is irregularly shaped, using a spiral shape would have merely been a change in shape that would have resulted in a similar function (See MPEP 2144.04 IV). Therefore, to use a spiral score would not have provided a patentable feature over the prior art. Furthermore as evidenced by Akutsu et al. on Column 1, Lines 15-20, a spiral score line has been well known in the art as a means for facilitating separation of a package.

- 30. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muza et al. (US 5397017) in view of Singer (6085919).**

Muza et al. is taken as cited above. Regarding wherein the protuberance comprises a plurality of bosses, Muza et al. teaches a continuous annular boss while the instant claim recites a plurality of bosses.

Muza et al. is silent in teaching wherein the protuberance is a plurality of bosses.

Singer teaches a cylindrical bottle comprising a secondary compartment used for storing a prize. Singer teaches that annular bosses have been well known in the prior art (Figure 4, Item 14b), and wherein said annular bosses are used to secure a secondary compartment to a bottle neck. MPEP Section 2144.06 states that in order to rely equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents. In this case, similar to the instant claims limitations, the annular protuberance of the prior art serves to secure the snack envelope to the bottle. Therefore, the structure of the prior art serves to perform the same function as that of the instant claim limitation: to removably snap fit a container to a bottle neck. A plurality of bosses would have served the same function as the annular protuberance in the prior art. Thus, to use a plurality of bosses for the protuberance would have been substituting a known equivalent for the same purpose, and thus would not have provided a patentable feature over the prior art.

- 31. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Selz (US 5397017) in view of Singer (6085919).** Selz is taken as cited above. Regarding wherein the protuberance comprises a plurality of bosses, Selz teaches a continuous annular boss while the instant claim recites a plurality of bosses.

Selz is silent in teaching wherein the protuberance is a plurality of bosses.

Singer teaches a cylindrical bottle comprising a secondary compartment used for storing a prize. Singer teaches that annular bosses have been well known in the prior art (Figure 4, Item 14b), and wherein said annular bosses are used to secure a secondary compartment to a bottle neck. MPEP Section 2144.06 states that in order to rely equivalence as a rationale supporting an obviousness rejection, the equivalency



must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents. In this case, similar to the instant claims limitations, the annular protuberance of the prior art serves to secure the snack envelope to the bottle. Therefore, the structure of the prior art serves to perform the same function as that of the instant claim limitation: to removably snap fit a container to a bottle neck. A plurality of bosses would have served the same function as the annular protuberance in the prior art. Thus, to use a plurality of bosses for the protuberance would have been substituting a known equivalent for the same purpose, and thus would not have provided a patentable feature over the prior art.

### ***Double Patenting***

32. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

33. Instant claims 1-17 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-17 of copending Application No. 11044811. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Art Unit: 1761

**Conclusion**

34. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viren Thakur whose telephone number is (571)-272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571)272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Viren Thakur  
Examiner  
Art Unit: 1761



KEITH HENDRICKS  
PRIMARY EXAMINER